



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

SSO/167815

PRELIMINARY RECITALS

Pursuant to a petition filed August 06, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, the Division of Hearings and Appeals conducted a hearing.

This hearing was originally scheduled for August 25, 2015 at 1:30 p.m. The Petitioner asked for a new hearing date, because works in the afternoons.

The hearing was then scheduled for September 8, 2015 at 9:15. The Petitioner, through a representative from the Milwaukee County Department of Health and Human Services – Disabilities Division, asked for a new hearing date to clarify the overpayment period.

The hearing was then scheduled for October 6, 2015, at 1:00. The Petitioner asked to reschedule the hearing because he had to work and because he was still trying to get paper work from the Social Security Administration. The hearing was duly scheduled for November 2, 2015.

The hearing took place, as scheduled, on November 3, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the Department of Health Services, Division of Health Care Access and Accountability (the agency) correctly determined that the Petitioner was overpaid \$167.56 in State SSI benefits in February and March 2015.

NOTE: At the hearing, the Petitioner indicated that he also received notice that he had been overpaid benefits in July 2015. The Petitioner did not disagree with this determination and indicated that he resolved this issue with DHS staff in Madison.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services

1 West Wilson Street, Room 651
 Madison, Wisconsin 53703
 By: No one

ADMINISTRATIVE LAW JUDGE:
 Mayumi M. Ishii
 Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. On July 23, 2015, the agency sent the Petitioner a Notice of State SSI and/or Caretaker Supplement Overpayment, indicating he was overpaid \$167.56 in benefits for February and March 2015. (Exhibit 3)
3. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on August 6, 2015. (Exhibit 1)
4. On November 2, 2015, the Social Security Administration provided the Petitioner with a letter indicating that he received Federal SSI benefits in February and March 2015. (Exhibit 4)

DISCUSSION

An individual is only eligible to receive *state* SSI State Supplement benefits if he also receives *federal* Supplemental Security Income (SSI) benefits in a given month. Wis. Stat § 49.77(2)(a)2. See also, 20 C.F.R. § 416.2025(b)(4).

The Social Security Administration (SSA) provided verification that it paid the Petitioner Federal SSI benefits in February and March 2015. There is no assertion by the SSA and there is no evidence in the record indicating that those benefits were paid incorrectly. Thus, per Wis. Stat § 49.77(2)(a)2., the Petitioner was entitled to State SSI benefits and no overpayment of State SSI benefits occurred in February and March 2015.

CONCLUSIONS OF LAW

DHS incorrectly determined that the Petitioner was overpaid over paid \$167.56 in State SSI benefits in February and March 2015.

THEREFORE, it is

ORDERED

That the agency rescind the \$167.56 overpayment for February and March 2015, that is the subject of the July 23, 2015 notice. The agency shall take all administrative steps necessary to complete this task within ten days of this decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and

why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

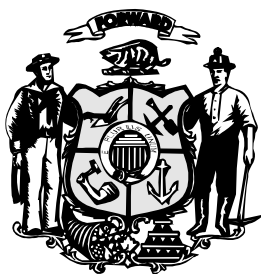
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 4th day of November, 2015

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 4, 2015.

Division of Health Care Access and Accountability
State SSI